

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Byron J. Contreras,)	
)	C/A No.: 8:05-3352-MBS
Petitioner,)	
)	
vs.)	
)	O R D E R
NFN Pettiford, Warden,)	
)	
Respondent.)	
_____)	

At the time the petition was filed, Petitioner Byron J. Contreras was an inmate in custody of the Federal Bureau of Prisons. He filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241, seeking reinstatement of good time credits.

This matter is before the court on Respondent's motion to dismiss, or in the alternative, for summary judgment, which motion was filed March 24, 2006. By order filed March 27, 2006, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Petitioner filed no response to the motion. By order filed May 5, 2006, Petitioner was granted until May 30, 2006 to respond to Respondent's motion. Petitioner elected not to respond.

In accordance with 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pretrial handling. On August 22, 2006, the Magistrate Judge issued a Report of Magistrate Judge in which she recommended that Petitioner's petition be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. The Clerk of Court mailed a copy of the order to Petitioner at his last known address at the Federal Detention Center, Post Office Box 5010, Oakdale, Louisiana 71463. The envelope containing the Report was returned to the Clerk of Court on September 1, 2006, marked "RETURN TO SENDER - REFUSED - UNABLE TO

FORWARD.”

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a *de novo* determination of any portions of the Report of Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

Petitioner was advised by order filed December 16, 2005 of his responsibility to notify the court *in writing* if his address changed. Petitioner was informed that his case could be dismissed for failing to comply with the court’s order. It appears that Petitioner no longer wishes to pursue this action. For this reason, and for the reasons stated by the Magistrate Judge, the court adopts the Report of Magistrate Judge. The within action is dismissed pursuant to Rule 41(b) *with prejudice* for failure to prosecute.

IT IS SO ORDERED.

/s/ Margaret B. Seymour

United States District Judge

September 11, 2006

Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.